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6 **IN THE SUPREME COURT**
7 **STATE OF ARIZONA**

8 In the Matter of:

Supreme Court No. R-19-

9 **PETITION TO AMEND RULE**
10 **34(b)(1)(D) OF THE RULES OF**
11 **THE SUPREME COURT OF**
12 **ARIZONA**

PETITION

13 Pursuant to Rule 28(A) of the Rules of the Supreme Court, David J.
14 Newstone hereby petitions this Court to amend Rule 34(b)(1)(D) of the Rules of
15 the Supreme Court, governing admission to the practice of law in Arizona.
16

17 The proposed amendment would permit attorneys who have practiced law in
18 Arizona under Rule 38(f) of the Rules of the Supreme Court to apply to sit for the
19 Arizona uniform bar examination.
20

21 **DISCUSSION**

22 At present, Rule 34(b)(1)(D) allows two groups to apply to sit for the
23 Arizona uniform bar examination: (1) graduates of law schools either provisionally
24 or fully approved by the American Bar Association at the time of graduation; and
25

1 (2) attorneys (with a juris doctor) who have been “actively engaged in the practice
2 of law in some other state or states for at least three of the last five years prior to
3 filing an application for admission to practice in Arizona.”
4

5 The current Rule thus permits attorneys, including foreign-educated
6 attorneys, who are not graduates of ABA-approved law schools to apply to sit for
7 the Arizona uniform bar examination so long as they (a) have been practicing law
8 in another state (or states) for at least three of the five years directly preceding the
9 application; and (b) meet each of the other requirements of the Committee on
10 Character and Fitness.
11

12 At present, Rule 34(b)(1)(D) requires such attorneys to practice outside
13 Arizona, which inadvertently disqualifies those who actively engage in the practice
14 of law in this state under Rule 38(f).
15

16 Rule 38(f) of the Rules of the Supreme Court is one of the “special
17 exceptions” to the standard examination and admission process. Consistent with
18 the importance that this Court attaches to the idea that the practice of law should
19 serve the public interest, Rule 38(f) permits attorneys who otherwise may not be
20 eligible to apply to sit for the Arizona uniform bar examination to practice law in
21 Arizona on behalf of low-income Arizonans:
22
23

24 An attorney who has been admitted to practice law in any other
25 jurisdiction for at least two years and who is employed part-time or
full-time by an approved legal services organization in this State that

1 provides legal assistance to indigents in civil matters, free of charge,
2 may be admitted to practice before all courts of this State...

3 At present, attorneys who practice law in the public interest under Rule
4 38(f), by providing free legal assistance to poor Arizonans, are ineligible under
5 Rule 34(b)(1)(D) to apply to sit for the Arizona uniform bar examination, simply
6 because they have worked in this state rather than in some other jurisdiction.
7

8 Whereas an attorney who has practiced law for a nonprofit organization (or a
9 government agency or a private law firm, etc.) in another state (or states) for at
10 least three years may apply to sit for the Arizona uniform bar examination, an
11 attorney who has practiced law in this state under Rule 38(f) for at least three years
12 may not.
13

14 As an unintended consequence, Rule 34(b)(1)(D) thereby operates to
15 discourage attorneys from practicing law in this state on behalf of low-income
16 Arizonans who depend on such free legal services for access to the civil justice
17 system.
18

19 The proposed amendment to Rule 34(b)(1)(D) would make Rule 34(b)(1)(D)
20 consistent with the policy behind Rule 38(f), by permitting attorneys who have
21 practiced law in Arizona under Rule 38(f) for at least three of the five years
22 directly preceding the application to apply to sit for the Arizona uniform bar
23 examination.
24
25

1 In order to achieve this objective, Rule 34(b)(1)(D) would be amended as
2 follows (additions are underlined):
3

4 **Rule 34. Application for Admission**

5 (a) [no change in text]
6

7 **(b) Applicant Requirements and Qualifications.**

8 1. No applicant will be recommended for admission to the practice of
9 law in Arizona by the Committee on Character and Fitness unless the
10 Committee is satisfied that:
11

12 A. [no change in text]

13 B. [no change in text]

14 C. [no change in text]
15

16 D. the applicant is a graduate with a juris doctor from a law school
17 provisionally or fully approved by the American Bar Association at
18 the time of graduation; or the applicant is a graduate with a juris
19 doctor and has been actively engaged in the practice of law in some
20 other state or states for at least three of the last five years prior to
21 filing an application for admission to practice in Arizona; or the
22 applicant is a graduate with a juris doctor and has been actively
23 engaged in the practice of law in this state for an approved legal
24 services organization under Rule 38(f) for at least three of the last five
25

years prior to filing an application for admission to practice in
Arizona; and

E.-F. [no change in text]

CONCLUSION

For the reasons set forth above, David J. Newstone respectfully requests that this Court amend Rule 34(b)(1)(D), as provided in the Appendix.

RESPECTFULLY SUBMITTED this 8th day of January, 2019.

/s/

David J. Newstone
Bar No. 033943

Electronic copy filed with the
Clerk of the Supreme Court of Arizona
this 8th day of January, 2019.

by: /s/
David J. Newstone
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